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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,135	11/03/2003	Robert J. Simmons	J-BSIM.1008	3709

7590 07/28/2005

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Portland, OR 97201

EXAMINER
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CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/700,135

Applicant(s)

SIMMONS, ROBERT J.

Examiner

Chapman E. Jeanette

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,3 and 5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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The indicated allowability of claim 4 is hereby withdrawn in view of the newly discovered prior art to Smith.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 2 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over Nagle (5271203) in view of McCaron (3225501) and Smith (1568777). Nagle with McCaron discloses a building foundation and interface system for the base of an upright, elongate column. The system defined a cross-section footprint with a defined perimetral outline. The system of Nagle in the operative relative to the foundation and column comprises:

1. a bucket well 2 which may be anchored in a foundation such as shown by McCaron in his bucket structure which includes adjacent the upper surface of that foundation an open topped well ;
2. an open topped well 21/22 having an upwardly facing cross sectional configuration with a defining perimetral rim 4/12 which is larger than the perimetral outline of the columns cross-sectional footprint
3. it is assumed that the well of Nagle as shown by McCaron receives the downwardly extending base with the column extending upwardly from the well

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and collectively with the rim allowing limited multi-directional adjustable lateral positioning of an upright column whose base is received in the well;

4. a now solidified, through once fluid –flowable, bulk anchoring material M including a skirt portion filling the well in the outside of the downwardly extending column base; see column 1, lines 10-40 of Nagle
5. the bucket well includes a pair of opposing , downwardly and outwardly flared walls which is capable of cooperating with the foot plate of McCaron; McCaron's well cooperates with his foot plates extension; with the bulk anchoring material of Nagle, there is a greater resistive wedging action that inhibits an upward movement of the column base within the bucket well.

Nagle lacks the foot plate as shown by McCaron with element 14; see figure 2 of McCaron. McCaron shows a foot plate 14 whose perimeter is larger than that of the of the column. It would have been obvious to one of ordinary skill in the art to include the obvious column/pole already taught by Nagle and the foot plate as taught by McCaron in order to firmly anchor the column.

Nagle also lacks the installation assist brace including a selectively openable/closeable collar structure adapted (a) to grip, and (b) to release from, the outside of the column at a location there along spaced upwardly from the column base when the latter is received in said well. Smith shows the brace including the adjustable collar to grip and release the column and the brace of Smith is for the express purpose of setting and replacing poles. It would have been obvious to include the brace of Smith to anchor or set the pole of Nagle in order to provide a means to set the pole as shown

Claims 3 (is/are) rejected under 35 U.S.C. 103(a) as being unpatentable over Nagle, Smith and McCaron in view of Listle (6663322). Nagle and McCaron lacks the column base or column filled with the bulk settable material. Listle discloses the base filled with this material; the manner in which the column is filled has been considered a matter of choice; one of ordinary skill in the art would have appreciated filling the column with the settable material in any manner, such as through wall in the column, which would enable the system to function as intended. See figures 4C and 8 of Listle. It would have been obvious to one of ordinary skill in the art to fill the column with settable material to further anchor the column within the base.

Arguments are moot in view of the new ground of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 703-308-1310. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jec

  
Jeanette Chapman  
Primary Examiner